

CHAPTER 12: ADMINISTRATION AND ENFORCEMENT

ARTICLE 1. CONFORMITY TO THE ZONING ORDINANCE

Every official and employee of the City of Greenwood vested with the duty or authority to issue a building permit or business license shall not issue a permit or license for any use, building or purpose that conflicts with any provision of this Ordinance. Any permit or license or certificate issued in conflict with the provisions of this Zoning Ordinance shall be null and void.

ARTICLE 2. ZONING REVIEW

12.2.1. Purpose of Zoning Review

No building, structure, or premises shall be used, and no building, structure, or part thereof shall be erected, moved, remodeled, extended, enlarged, or altered, except in conformity with the provisions of this Ordinance. It shall be the duty of the Zoning Official to determine compliance with the provisions of the Ordinance through zoning review. Zoning review includes the review and approval of Building Permits, and the issuance of Zoning Permits and Certificates of Zoning Compliance.

12.2.2. Building Permit Required

No permit for erection, alteration, relocation, or repair of any building, structure shall be issued until approval for the issuance of a Building Permit has been granted by the Zoning Official. All Building Permit applications shall be accompanied by two (2) copies of the plans for the proposed action, drawn to scale, which include the following information:

- A. The actual dimensions and shape of the lot to be built upon.
- B. The exact sizes, locations and existing uses of buildings already located on the site, if any.
- C. The location and dimensions, to include height, of the proposed building or alternation.
- D. The size and location of all proposed driveways, off-street loading areas, and off-street parking areas.
- E. Existing and/or proposed uses of the building and land on the site.
- F. The number of families, housekeeping units, or rental units that the building is designed to accommodate, if applicable.
- G. The number of persons to be employed at the site and the maximum number of persons who will be on the site at any given time, if applicable.
- H. Existing conditions on the site such as slope or drainage.
- I. Such other information the Zoning Official may require to verify full compliance with the provisions of the Ordinance.

12.2.3. Zoning Permits for Signs

No sign shall be erected, installed, altered, relocated, or repaired until a Zoning Permit has been issued for the proposed action by the Zoning Official. All Zoning Permit applications shall be accompanied by two (2) copies of the plans for the proposed action, drawn to scale, which include the following information:

- A. A complete application form as approved by the Zoning Official.
- B. A scaled plan and drawings showing the front and side elevations of the sign as

proposed and including the correct size, shape configuration, face area, height, and type of sign to be erected, including the size of the letters and graphics.

- C. For freestanding signs, a scaled drawing showing property lines, proposed sign location, lighting plan, and any existing site improvements.
- D. For facade signs, a scaled drawing showing the entire facade or tenant space facade, the proposed sign location, and any existing facade signs.
- E. Such other information the Zoning Official may require to verify full compliance with the provisions of the Ordinance.
- F. Photos and/ or scaled drawings of all existing signs on the property.

12.2.4. Zoning Review Procedure

At the time that a Building Permit or Sign Permit application is filed, the applicant shall submit two (2) copies of the plans for the proposed action for use in zoning review, in addition to the submittal requirements of the Building Official. One (1) copy of the plans for the proposed action shall be reviewed and returned to the applicant by the Zoning Official. That copy shall be marked as either approved or disapproved, and shall be signed by the Zoning Official or his/her designated agent. The original copy of the plans, similarly marked, shall be retained by the Zoning Official. If zoning approval is denied, the Zoning Official shall advise the applicant of the particular provisions of this Ordinance with which the proposed action does not comply.

12.2.5. Certificates of Zoning Compliance

It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises, or both, or parts thereof whose use has been wholly or partly altered or expanded until a Certificate of Zoning Compliance has been issued by the Zoning Official stating that the proposed use of the building or land conforms to the requirements of this Ordinance. The addition of a Home Occupation use to a building or site shall require the issuance of a Certificate of Zoning Compliance. Failure to make such application within three (3) months of the creation of the Home Occupation shall be presumptive evidence that the property was a nonconforming use at the time of enactment or amendment of this Ordinance.

All applications for a Certificate of Zoning Compliance must be accompanied by a complete Certificate of Zoning Compliance form as approved by the Zoning Official. The Zoning Official shall review and approve or deny the application. If the application is denied, the Zoning Official shall advise the applicant of the particular provisions of this Ordinance with which the proposed action does not comply. The Zoning Administrator shall maintain a record of all Certificates of Zoning Compliance, and copies shall be furnished upon request to the public.

A temporary Certificate of Zoning Compliance may be issued by the Zoning Official for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

12.2.6. Certificate of Appropriateness

12.2.6.1. General

A Certificate of Appropriateness is required before a building permit can be issued for the demolition, repair, alteration, relocation, and new construction of a designated historic property and/or district. The City of Greenwood shall consider any building permit not issued in conformance with this Section void.

Application for a Certificate of Appropriateness shall be signed by the owner and the Chairperson of the Board stating its approval, denial, or approval with conditions and the reasons for the decision. A copy of the signed application will be kept as part of the public record.

12.2.6.2. Procedure

An application for a Certificate of Appropriateness shall be obtained from the Greenwood City/County Planning Department. The completed application shall be filed along with three (3) complete sets of all plans in the Greenwood City/County Planning Department.

Applications shall be reviewed by the Joint Board of Architectural Review at its next scheduled meeting, provided the application was filed at least seven (7) calendar days prior to the meeting date. If the Board has not acted within 45 days after the completed application is received, the application will be considered approved, and permits shall be issued, except in cases where a demolition of any structure has been postponed under provisions of this Ordinance.

The Board in a public meeting shall review each application. Designs shall be approved based upon design guidelines set forth in this Ordinance and standards specific to the district in which the property is located. Findings of fact shall be made to decide the appropriateness of the proposed change. The decisions of the Board and reasons for the decision shall be recorded in the minutes of each meeting and will be made available upon request as public record.

12.2.6.3. Application

The Board shall require data as is reasonable and necessary to determine the nature of the application. An application shall not be considered complete until all materials are compiled and filed with the planning staff.

Such application shall contain, but is not limited to, the following items:

- A. A completed application form, including current zoning designation.
- B. Three (3) sets of completed plans showing property boundaries, easements, and setbacks.
- C. Site history, if necessary.
- D. Survey of site.
- E. Photographs, elevations, and/or scaled drawings of existing conditions and pertinent streetscapes.
- F. Application fee.

12.2.6.4. Notification of Affected Property Owners

The owners of all adjacent properties shall be notified of the public hearing by mail. Such mailing shall include an explanation of the nature of the request, the meeting place, the date and the time of the hearing.

12.2.6.5. Re-submission of Application

An application for a Certificate of Appropriateness may be re-submitted without penalty if:

- A. A quorum of the Board is not present at the time it is reviewed;
- B. It is withdrawn by the applicant or staff at least one (1) day prior to the meeting; or
- C. For any reason the Board fails to take action, in favor or against, the application.

If an application fails to be approved by majority, but with no action to deny, it may be submitted under new application at the next scheduled meeting.

If an application is denied it may be re-submitted only after substantial changes, upon Commission recommendation, have been made to the plans and filed with a new application to the planning staff.

12.2.6.6. Maintenance, Repairs, and Interior Arrangements Exempted

This section in no way seeks to prevent the ordinary maintenance and repair of any structure designated as historic when that repair does not involve any change in design, material, color, or outer appearance of the structure. The Board will not consider any interior arrangements or alterations unless impacting on the exterior footprint of the structure.

12.2.6.7. Delegation of Review of Minor Projects or Repairs

The Board may authorize the Zoning Official to approve minor projects and repairs that do not alter design, materials, color, or outer appearance of a structure.

12.2.6.8. Fines and Penalties

A system of fines and penalties applied by the City of Greenwood and levied by the Magistrate for violation of building and zoning codes will apply to any violation of this ordinance.

12.2.6.9. Substantial Hardship

In the event that an application for a Certificate of Appropriateness is denied, a property owner may apply for an exemption based on substantial hardship of maintaining the property in accordance to this Ordinance and its design guidelines.

The Board may consider exemption for substantial hardship where one or more of the following unusual and compelling circumstances apply to the property owner:

- A. The property cannot reasonably be maintained in the manner dictated by the ordinance;
- B. There are no other reasonable means of saving the property from deterioration or

collapse; or

- C. The property is owned by a non-profit organization and it is not feasible financially or physically to achieve the organization's charitable purposes while maintaining the property appropriately.

The Board may require a property owner applying for an exemption based on substantial hardship to submit documentation that shows inability to comply with the ordinance and to earn a reasonable rate of return on the investment into the property. Documentation may include, but is not limited to:

- A. Costs of the proposed project with and without modifications needed to comply with design guidelines as determined by the Board;
- B. Structural report and/or feasibility report;
- C. Market value of the property in its current condition and after completion of the proposed project;
- D. Cost of the property, date of purchase, relationship, if any, between the buyer and seller, terms of financing; and
- E. Annual gross income from the property with operating and maintenance expenses, depreciation, and annual cash flow before and after debt service during a period of time of at least two (2) fiscal years prior to application.

When the Board determines a property owner has provided satisfactory documentation of substantial hardship, the Board may then issue a Certificate of Economic Hardship.

12.2.6.10. Alternatives to Demolition

If the Board denies a request for demolition, partial or full, of a historic structure, it shall be the obligation of the Board to work with the owner of the structure and property to seek out alternatives. These alternatives may include, but are not limited to, possible buyers and creative or alternative financing for rehabilitation. The Board shall inform the public concerning the threat to the building, its value to the community, and through publicity and civic partnerships, seek to provide assistance in preserving the structure and/or property.

12.2.7. Conditional Use Permits

A conditional use permit is a Building Permit or Zoning Permit that is issued subject to the adherence by the applicant to listed conditions. Conditions for particular land uses are listed within the appropriate Zoning District Chapter, and specific land uses for which conditions must be met are noted in *Table 3.1 - Zoning District Use Table*.

Failure of the Zoning Official to act on an application for a conditional use permit for a communications tower and/or antenna which is determined to be complete under Chapters 4 through 9 of this Ordinance within 45 days, unless extended by agreement, may be considered by the applicant to be a denial of the permit, subject to appeal to the Joint Board of Zoning Appeals.

12.2.8. Expiration of Zoning Approval or Zoning Permit

Work described in any Building Permit or Zoning Permit that has not begun within six (6) months

from the date of issuance of the permit shall cause the permit to expire and be of no further effect. In such cases, no further work shall occur until a new Building Permit (including a new zoning approval) or Zoning Permit has been obtained.

12.2.9. Appeal of Decision of the Zoning Official

Appeals of the administrative decisions made by the Zoning Official shall be made to the Joint Board of Zoning Appeals of Greenwood County. Said appeal must be filed within 30 days of the decision. Appeals of the administrative decisions made by the Zoning Official relating to the administration of the provisions of the Historic Overlay District must be made to the Board of Architectural Review. A public hearing shall be held in which the article and section of the ordinance must be stated.

ARTICLE 3. ZONING AMENDMENTS

12.3.1. Amendment Authorization and Procedure

This Zoning Ordinance, including the Official Zoning Maps, may be amended from time to time by the City Council after study by the Planning Commission in accordance with the procedures outlined below.

12.3.2. Who May Initiate Amendments

Proposed changes or amendments to the Official Zoning Maps may be initiated by the City Council; Planning Commission; and, individual property owners or agent with authorization from the property owner. Rezoning requests by petition are prohibited. Requests for amendment to the text of the Zoning Ordinance may only be initiated by the Planning Commission or the City Council.

12.3.3. Application for Amendment

An application for an amendment to the Zoning Ordinance, including amendments to the Official Zoning Maps, shall require a complete Zoning Amendment application approved by the Zoning Official. At a minimum, the applicant shall provide the following information:

- A. A complete Zoning Amendment application.
- B. A copy of a map or plat providing a legal description of the property proposed for consideration, if applicable.
- C. A narrative addressing the reasons for the requested amendment.
- D. When applying for an amendment to a Planned Development (PD) district, the applicant must provide additional information as provided in *Chapter 3, Article 6 - Planned Development District Regulations*.
- E. If the rezoning request involves a request for a district that allows an increase in density, a traffic circulation plan and impact assessment shall be provided with the application. Please note that this does not have to be developed by an engineer, but must provide overall average daily traffic counts, proposed average daily traffic counts, proposed and existing curb cuts and overall traffic circulation. The Planning Department staff, SCDOT and others shall provide the applicant with any available data.

Applications for amendment to a new or existing Historic Overlay District must be accompanied by such information as is required by *Chapter 4, Article 3 - Historic Overlay District*. Such application shall be filed with the Greenwood City/County Department of Planning at least 20 days prior to the regularly scheduled meeting of the Greenwood City/County Planning Commission. The application shall be accompanied by the appropriate published fee.

12.3.4. Staff Review and Report

The Zoning Official shall prepare a report that reviews the proposed amendment, taking into account the recommendations of the Comprehensive Plan, the review criteria used by the Planning Commission as listed below, and the general requirements of this Ordinance. The report will be

included in the agenda package, and will be submitted to the Planning Commission at least five (5) days prior to the meeting. The report shall include the following information:

- A. Name of applicant.
- B. Tax map number of the property, if applicable.
- C. Location of the property (text and map), if applicable.
- B. Total acreage of the property, if applicable.
- E. Current and proposed zoning of the property, if applicable.
- F. The zoning designation and current land use(s) of properties located adjacent to the amendment property, if applicable.
- G. An analysis of the proposed amendment and recommendation to the Planning Commission.

In addition, the staff report for proposed amendment to a new or existing Historic Overlay District must be accompanied by such information as is required by *Chapter 4, Article 3 - Historic Overlay District*.

12.3.5. Joint Board of Architectural Review - Review and Recommendation

The Joint Board of Architectural Review shall study any proposed amendment to a new or existing Historic Overlay District, taking into account all factors which it may deem relevant including, but now limited to the following criteria:

- A. The structure is of a documented age of 50 years of age or older;
- B. The property or any structure on a property has significant inherent character, interest, or value as part of the development or heritage of Greenwood County, South Carolina, or the United States of America;
- C. The property or any principle structure on a property that is the site of a significant event in history;
- D. The property or any principle structure on a property is associated with a person or persons who contributed significantly to the culture and development of Greenwood County, South Carolina, or the United States of America;
- E. The property or any structure on a property exemplifies cultural, political, economic, social, ethnic, or historical heritage, of Greenwood County, South Carolina, or the United States of America;
- F. The property or any structure on a property contains elements of design, detail, materials, or craftsmanship that represents significant innovation or the work of a designer who has significantly influenced the development of the community;
- G. The property or any structure on a property is part of or related to a distinctive element of community planning;

- H. The property or any structure on a property represents an established and familiar visual feature of the neighborhood; and
- I. The property or any structure on a property individually, or as part of a collection of resources embodies distinguishing characteristics of a style, type, period, or unique quality in architecture, engineering, landscape architecture, or artistry.

12.3.6. Joint Planning Commission - Review and Recommendation

The Planning Commission shall study the proposed amendment taking into account all factors which it may deem relevant including, but not limited to the following criteria:

- A. The relationship of the request to the Comprehensive Plan, and whether the request violates or supports the recommendations of the Plan;
- B. Changes in conditions since the adoption of the Comprehensive Plan or the Zoning Ordinance;
- C. The need to correct an error or deficiency in the Ordinance or Plan;
- D. Any benefits which would be derived from the amendment;
- E. Compatibility with the present zoning and conforming uses of nearby property and with the character of the surrounding neighborhood;
- F. Any cost to the government generated by the amendment in terms of expenditures for public improvements, facilitates, and services; and
- G. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City/County and any special circumstances which may make a substantial part of such vacant land unavailable for development.

As a matter of policy, no request to change the text of the ordinance or the map shall be acted upon favorably by the Commission except:

- A. Where necessary to implement the Comprehensive Plan;
- B. To correct an original mistake, a manifest error in the regulations or map;
- C. To protect areas designated as historically significant;
- D. To recognize substantial change or changing conditions or circumstances in a particular locality; or
- E. To recognize changes in technology, the style of living, or manner of doing business.

The Planning Commission shall prepare a report and make recommendations on any proposed amendment, stating its findings and its evaluation of the request. The Planning Commission shall have 30 days from the time the proposed amendment is presented to them within which to submit its report and recommendations to the City Council. If the Commission fails to submit a report within the 30 day period, it shall be deemed to have approved the requested amendment. Any

communication purporting to be an application for a change shall be regarded as mere notice to seek relief until it is made in the form required.

If an application for amendment advertised for public hearing is withdrawn by the applicant up to 72 hours prior to the Planning Commission meeting, the applicant will be allowed to resubmit the request one (1) additional time in a 12 month period. If the request is withdrawn for whatever reason a second time within that 12 month period, the Commission will not reconsider the request for one (1) year from the date of the second withdrawal (Commission meeting date). If a request is withdrawn less than 72 hours prior to the Planning Commission meeting, the Commission will determine whether to allow the withdrawal and may choose to proceed with review of the request as advertised regardless of whether the applicant wished to withdraw the request. Once the Planning Commission's recommendation is made, an applicant must wait two (2) years to request another rezoning on the same parcel of land.

12.3.7. City/County Council Action

The City Council shall hold a public hearing on the amendment. In the case of a proposed amendment to the text of the Ordinance, the City Council shall hold a public hearing. Posting of the hearing shall be in accordance with *Section 12.3.8*.

The City Council shall consider the proposed amendment at the earliest possible date and shall consider the report and recommendations of the Planning Commission in making its decision.

When the City Council approves a request to amend the zoning of a property, the Zoning Official shall amend the Official Zoning Maps within one (1) day of the final reading by the City Council. When the City Council has denied a request for an amendment, it shall not consider another request for an amendment affecting the same property until two (2) years from the date of the previous denial by Council, except after a majority vote by Council (See *Section 12.3.6* for further explanation of re-application rules and procedures).

12.3.8. Public Notice of Hearing

A notice of the public hearing shall be placed in a newspaper of general circulation in the County at least 15 days prior to the hearing, and shall include the proposed amendment, the meeting place, and the date and time of the hearing.

In the case of a request to amend the zoning of a property, conspicuous notice shall be posted on or adjacent to the property. The postings shall be located so that at least one (1) such notice is visible from each public street that abuts the affected property. Posting of said property shall occur at such time as the notice is given, 15 days prior to the hearing.

Owners of properties proposed to be included in a new or existing Historic Overlay District shall be notified in writing at least 30 days prior to the public hearing by Council.

In addition, in the case of a request to amend the zoning of a property, the owners of all adjacent properties shall be notified of the public hearing by mail. Such mailing shall include an explanation of the nature of the request, the meeting place, the date and the time of the hearing.

12.3.9. Appeals

Any applicant or other party aggrieved by the City Council's determination may appeal the decision

to the Circuit Court in and for the County of Greenwood by filing with the Clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within 30 days after the decision of the Council is rendered.

ARTICLE 4. VARIANCES

12.4.1. Variance Authorization and Procedure

Variances from the provisions of this Zoning Ordinance, where strict application of the provisions of the Ordinance may cause an unnecessary hardship, may be granted by the Joint Board of Zoning Appeals in accordance with the procedures outlined below.

12.4.2. Who May Initiate a Request for a Variance

The owner, developer, or agent with authorization from the owner may initiate a request for a variance by filing an application with the Zoning Official.

12.4.3. Application for a Variance Request

A request for a variance to the Zoning Ordinance shall require a completed Zoning Variance Application approved by the Zoning Official. At a minimum, the applicant shall provide the following information:

- A. A complete Zoning Variance application.
- B. A copy of a map or plat providing a legal description of the property in consideration.

Such application shall be filed with the Greenwood City/County Planning Department at least 20 days prior to the regularly scheduled meeting of the Greenwood County Zoning Board of Appeals, and shall be in accordance with the published schedule of variance deadlines and meeting dates, and shall be accompanied by the appropriate published fee.

12.4.4. Conditions Not Eligible for a Variance

Other than variances from general zoning district regulations and setback requirements, variances from conditions imposed by this Ordinance on communications towers and/or antennas as outlined in *Chapter 3 - Zoning District Regulations* and *Chapter 6, Article 5 - Communications Towers* may not be granted by the Joint Board of Zoning Appeals (BZA). Proposed communications towers that would exceed height limitations as set in this Ordinance may be permitted by the BZA as a special exception, as outlined in *Chapter 12, Article 6 - Special Exceptions*.

12.4.5. Staff Review and Report

The Zoning Official shall prepare a report that reviews the proposed variance, taking into account the recommendations of the Comprehensive Plan, the review criteria used by the Board of Zoning Appeals as listed below. The report will be included in the agenda package, and will be submitted to the Board of Zoning Appeals at least five (5) days prior to the meeting.

12.4.6. Board of Zoning Appeals Action

The Board shall hear variances at its regularly scheduled monthly meetings. The applicant or their agent and others wishing to comment in favor or opposition to the request may do so under oath. The Board in the execution of the duties specified in *Title 6, Chapter 29 of the S.C. Code of Laws* may subpoena witnesses and in case of contempt may certify this fact to the circuit court having jurisdiction.

A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:

- A. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- B. These conditions do not generally apply to other property in the vicinity;
- C. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- D. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.

The Board may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.

A request for a variance or appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal has been filed from him, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life and property. In that case, proceedings may not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

In exercising the power given to them by the provisions of *S.C. Code of Laws, Title 6, Chapter 29* the Board may reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

All final decisions and orders of the Board must be in writing and be permanently filed in the office of the Board as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board which must be delivered to parties of interest by certified mail.

12.4.7. Public Notice of Hearing

A notice of the Board of Zoning Appeals hearing shall be placed in a newspaper of general circulation in the County at least 15 days prior to the meeting, and shall include a description of the proposed variance, the meeting place, and the date and time of the meeting.

When a variance is requested, conspicuous notice shall be posted on or adjacent to the property.

The postings shall be located so that at least one such notice is visible from each public street that abuts the affected property. Posting of said property shall occur at such time as the notice is given, 15 days prior to the hearing.

In addition, the owners of all adjacent properties shall be notified of the public hearing by mail. Such mailing shall include an explanation of the nature of the request, the meeting place, the date and the time of the hearing.

12.4.8. Appeals

If a variance request is denied by the Joint Board of Zoning Appeals, the applicant or other aggrieved party may appeal the decision to the circuit court in and for the County of Greenwood by filing with the Clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within 30 days after the decision of the Board is mailed.

ARTICLE 5. ADMINISTRATIVE APPEALS

It is the intention of this ordinance that all questions arising in connection with the enforcement of the Ordinance shall be presented first to the Zoning Official and that such question shall be presented to the Board of Zoning Appeals only on appeal from the decision of the Zoning Official. Appeals from administrative decisions relating to the provisions of the Historic Overlay District regulations as provided in *Chapter 4, Article 3 - Historic Overlay Districts* shall be presented first to the Zoning Official and then made to the Board of Architectural Review only on appeal from the decision of the Zoning Official.

12.5.1. Who May Initiate an Administrative Appeal

Any person aggrieved by an administrative decision or interpretation of the Zoning Official may bring an appeal to the Board of Zoning Appeals or the Board of Architectural Review by filing an application with Zoning Official. The appropriate Board shall hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by the Zoning Official in the enforcement of this Zoning Ordinance.

12.5.2. Application for a Request

An application for an appeal to an administrative decision by the Zoning Official shall require a complete Appeal to a Zoning Official's Decision Form approved by the Zoning Official. Such application shall be filed with the Greenwood City/County Department of Planning at least 20 days prior to the regularly scheduled meeting of the Greenwood City/County Zoning Board of Appeals.

12.5.3. Board of Appeals or Board of Architectural Review Action

Both the Board of Zoning Appeals and the Board of Architectural Review shall hear appeals to administrative decisions at their regularly scheduled meetings. The applicant or their agent and others wishing to comment in favor or opposition to the request may do so under oath. The Board in the execution of the duties specified in Title 6, Chapter 6 of the S.C. Code of Laws may subpoena witnesses and in case of contempt may certify this fact to the circuit court having jurisdiction. At the conclusion of the proceeding on the appeal, the Board shall take one (1) of the following actions, consistent with the provisions of this Ordinance:

- A. Affirm the action of the Zoning Official;
- B. Modify the action of the Zoning Official, and to that end, have all the powers of the officer from which the appeal is taken, and may issue a permit or direct that a permit be issued; or
- C. Reverse the action of the Zoning Official, and to that end, have all the powers of the officer from which the appeal is taken, and may issue a permit or direct that a permit be issued.
- D. In the event of a tie vote, the decision of the Zoning Official shall stand.

All final decisions and orders of the Board must be in writing and be permanently filed in the office of the Board as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board which must be delivered to parties of interest by certified mail.

12.5.4. Public Notice of Hearing

A notice of the Board of Zoning Appeals or Board of Architectural Review hearing shall be placed in a newspaper of general circulation in the County at least 15 days prior to the meeting, and shall include a description of the proposed variance, the meeting place, and the date and time of the meeting.

When a request for an administrative appeal is made, conspicuous notice shall be posted on or adjacent to the property. The postings shall be located so that at least one such notice is visible from each public street that abuts the affected property. Posting of said property shall occur at such time as the notice is given, 15 days prior to the hearing.

In addition, the owners of all adjacent properties shall be notified of the public hearing by mail. Such mailing shall include an explanation of the nature of the request, the meeting place, the date and the time of the hearing.

12.5.5. Appeals

If an appeal to an administrative decision is denied by the Joint Board of Zoning Appeals or the Joint Board of Architectural Review, the applicant or other aggrieved party may appeal the decision to the circuit court in and for the County of Greenwood by filing with the Clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within 30 days after the decision of the Board is mailed.

ARTICLE 6. SPECIAL EXCEPTIONS

A special exception shall require approval by the Board of Zoning Appeals.

12.6.1. Who May Apply for a Special Exception

A special exception may be initiated by the owner of the affected property or a designated agent for the owner.

12.6.2. Application for a Special Exception

An application for a Special Exception shall require a complete Special Exception Form approved by the Zoning Official, in addition to a complete Building Permit application, if applicable. Such application shall be filed with the Greenwood City/County Planning Department at least 20 days prior to the regularly scheduled meeting of the Greenwood County Joint Board of Zoning Appeals.

Failure of the Zoning Official to act on an application for a special exception for a communications tower and/or antenna which is determined to be complete under *Chapters 4 through 9* of this Ordinance within 45 days, unless extended by agreement, may be considered by the applicant to be a denial of the permit, subject to appeal to the Joint Board of Zoning Appeals.

12.6.3. Staff Review and Report

The Zoning Official shall prepare a report that reviews the proposed special exception, taking into account the recommendations of the Comprehensive Plan, the review criteria for the proposed special exception, and the general requirements of this Ordinance. The report will be included in the agenda package, and will be submitted to the Board of Zoning Appeals at least five (5) days prior to the meeting.

12.6.4. Board of Zoning Appeals Action

The Board of Zoning Appeals shall hear requests for special exceptions at its regularly scheduled monthly meetings. The applicant or their agent and others wishing to comment in favor or opposition to the request may do so under oath.

The Board shall approve an application for a special exception if and only if the applicant demonstrates that the proposed use and any associated development will:

- A. Be in accordance with the Comprehensive Plan;
- B. Be consistent with the character and purpose of the applicable district;
- C. Be of a size, shape and character suited for the proposed use;
- D. Be compatible with the existing uses adjacent to and near the property, and not otherwise adversely affect the development of the district in which the use is proposed;
- E. Not generate vehicular traffic or create vehicular circulation problems or parking demands that have an unacceptable adverse impact on nearby properties when compared with uses permitted by right in the same district and be consistent with

existing and planned pedestrian and vehicular circulation adjacent to and near the property;

- F. Not be hazardous, detrimental or disturbing to surrounding land uses due to noise, glare, smoke, dust, odor, fumes, water pollution, or general nuisance;
- G. Be adequately served by essential public services and facilities; and
- H. Conform to any criteria or conditions specified for that use by special exception in the applicable district or for the proposed use, as set forth in *Chapter 3 - Zoning District Regulations*.

All final decisions and orders of the Board must be in writing and be permanently filed in the office of the Board as a public record.

12.6.5. Public Notice of Hearing

A notice of the Board of Zoning Appeals hearing shall be placed in a newspaper of general circulation in the County at least 15 days prior to the meeting, and shall include a description of the proposed special exception, the meeting place, and the date and time of the meeting.

When a request for a special exception is made, conspicuous notice shall be posted on or adjacent to the property, if applicable. The postings shall be located so that at least one (1) such notice is visible from each public street that abuts the affected property. Posting of said property shall occur at such time as the notice is given, 15 days prior to the hearing.

In addition, the owners of all adjacent properties shall be notified of the public hearing by mail. Such mailing shall include an explanation of the nature of the request, the meeting place, the date and the time of the hearing.

12.6.6. Appeals

If a request for a special exception is denied by the Joint Board of Zoning Appeals, the applicant or other aggrieved party may appeal the decision to the circuit court in and for the County of Greenwood by filing with the Clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within 30 days after the decision of the Board is mailed.

ARTICLE 7. ENFORCEMENT, VIOLATIONS AND PENALTIES

The appropriate governing body may provide for the enforcement of this Ordinance adopted pursuant to the provisions of *Title 6, Chapter 29 of the S.C. Code of Laws* by means of the withholding of building or zoning permits, or both, and the issuance of stop orders against any work undertaken by an entity not having a proper building or zoning permit, or both. It is unlawful to construct, reconstruct, alter, demolish, or change the use of or occupy any land, building, or other structure without first obtaining the appropriate permit or permit approval. No permit may be issued or approved unless the requirements of this Ordinance, adopted pursuant to *Title 6, Chapter 29 of the S.C. Code of Laws*, are complied with. It is unlawful for other officials to issue any permit for the use of any land, building, or structure, or the construction, conversion, demolition, enlargement, movement, or structural alteration of a building or structure without the approval of the zoning administrator.

Whenever a violation of the Ordinance occurs, or is alleged to have occurred, the Zoning Official shall record and investigate such complaint. Complaints may be filed in writing or verbally, stating fully the cause and basis of the complaint. If the Zoning Official finds that any one of the provisions of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/She shall order discontinuances of illegal use of land, buildings, or structures; removal of illegal buildings or structures; illegal additions, alterations, or structural changes; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

A violation of this Ordinance is a misdemeanor. In case a building, structure, or land is or is proposed to be used in violation of this Ordinance, the Zoning Official or other appropriate administrative officer, municipal or county attorney, or other appropriate authority of the municipality or county or an adjacent or neighboring property owner who would be specially damaged by the violation may in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure, or land. Each day the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues is considered a separate offense.

In case a building, structure, or land is or is proposed to be used in violation of this ordinance, the Zoning Official or other designated administrative officer may in addition to other remedies issue and serve upon a person pursuing the activity or activities a stop work order requiring that entity to stop all activities in violation of the zoning ordinance.